



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2013-0284]

Commercial Driver's License Standards: Application for Exemption; Miami Nice Tours

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA announces that Miami Nice Tours (Miami) has applied for an exemption from the commercial driver's license (CDL) provisions of part 383 of the Federal Motor Carrier Safety Regulations (FMCSRs) (49 CFR 350-399) for itself and 50 European drivers. Miami, a motor carrier, would employ the 50 European drivers to conduct approximately 87 motorcoach tours in the United States annually. Part 383 requires motorcoach drivers to hold a CDL issued by a U. S. State. While each driver is licensed to operate a motorcoach in his or her European country of residence, States do not issue CDLs to non-residents. Miami believes that these drivers are likely to achieve a level of safety that is equivalent to or greater than the level of safety that would be obtained if they held U.S. CDLs.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER.]

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA-2013-0284 by any of the following methods:

- Federal eRulemaking Portal: [http:// www.regulations.gov](http://www.regulations.gov). Follow the online instructions for submitting comments.
- Fax: 1-202-493-2251.

- Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, Washington D.C. 20590-0001.
- Hand Delivery or Courier: West Building, Ground Floor, Room W12-140, DOT Building, 1200 New Jersey Avenue, SE., between 9:00 a.m. and 5:00 p.m. e.t., Monday through Friday, except Federal holidays.
- Instructions: All submissions must include the Agency name and docket number. For detailed instructions on submitting comments and additional information on the exemption process, see the Public Participation heading below. Note that all comments received will be posted without change to www.regulations.gov, including any personal information provided. Please see the Privacy Act heading below.
- Docket: For access to the docket to read background documents or comments received, go to www.regulations.gov at any time and in the box labeled “SEARCH for” enter FMCSA-2013-0284 and click on the tab labeled “SEARCH.”
- Privacy Act: Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).
- Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can get electronic submission and retrieval help

and guidelines by clicking on the word “Help” at the top of the Portal home page. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online. Comments received after the comment closing date will be included in the docket, and we will consider late comments to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Yager, Chief, FMCSA Driver and Carrier Operations Division; Office of Bus and Truck Standards and Operations; Telephone: 202-366-4325. E-mail: MCPSD@dot.gov.

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31315 and 31136(e) to grant exemptions from certain parts of the FMCSRs. The Agency is required to publish a notice of each exemption request in the **Federal Register** [49 CFR 381.315(a)]. FMCSA must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

FMCSA reviews safety analyses and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to or greater than the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** with the reasons for denying or granting the application, and if granted, the name of the person or class of persons receiving the exemption and the regulatory provisions from which the exemption

is granted [49 CFR 381.315(b) and (c)]. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed [49 CFR 381.300(b)].

Request for Exemption

Miami Nice Tours (Miami) is a motor carrier based in Florida and duly registered with FMCSA to transport passengers in interstate commerce. It has applied for an exemption from the CDL provisions of part 383 of the FMCSRs for itself and 50 European drivers. It wishes to employ the foreign drivers to conduct approximately 87 motorcoach tours in the United States. Miami states that these drivers “have a long-term relationship with the passengers; the passengers simply would not book the tour without [these drivers] accompanying them” A copy of the application for exemption is in the docket listed at the beginning of this notice.

Part 383 requires motorcoach drivers to hold a CDL. The foreign drivers do not hold CDLs issued by a U.S. State, but they are licensed to operate motorcoaches in their respective country of residence (Germany, Austria, or Switzerland). Miami seeks the exemption because the foreign drivers cannot satisfy the residency requirement that all States require of applicants for a CDL. Miami states that an exemption is appropriate because Miami asserts that these drivers are likely to achieve a level of safety operating motorcoaches in the U.S. that is equivalent to or greater than the level of safety that would be obtained if they held U.S. CDLs.

Request for Comments

In accordance with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA requests public comment on Miami’s application for an exemption from the CDL requirements of

49 CFR 383.23. The Agency will consider all comments received by close of business on [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**.] Comments will be available for examination in the docket as explained in the “ADDRESSES” section of this notice under the term “Docket.”

Issued on: August 9, 2013

Larry W. Minor
Associate Administrator for Policy

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